IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 13882 of 2004

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Between:

P.Rama Murthy Reddy, S/o Ramakrishna Reddy,
R/o D.No.10-51, V.N.Street, Renigunta, Chittoor District

..... PETITIONER

AND

-

1 The Commissioner of Excise, Government of Andhra

Pradesh, Hyderabad.
2 The Superintendent of Prohibition & Excise, Chittoor,

Chittoor District.
3 Siva Kumar, s/o Radha Krishna, Proprietor of

Padmavathi Wines-I, D.No.1-153, G.M. Street,

Renigunta, Chittoor District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents particularly the 1st and 2nd respondents in allowing the 3rd respondent to shift the Padmavathi wine Shop-I from the existing premises at D.No.1-153 G.M. Street, Renigunta to D.No.17/28-A Renigunta-Kalahasti Road, Renigunta, Chittoor District without considering the statutory provisions and the objections of the college as well as the parents of the students of the college as illegal, unjust, arbitrary, without consideration, mala fide and against Rule 6(1) of A.P. Excise (Indian Foreign Liquor Retail Sale Conditions of Licences) Rules 1993 and consequently direct the respondent No.1 & 2 not to allow the 3rd respondent to shift the Padmavathi Wine Shop-I from the existing

premises at D.No.1-153 G.M. Street, Renigunta to D.No.17/28-A Renigunta-Kalahasti Road, Renigunta, Chittoor District

Counsel for the Petitioner: MR.L.J.VEERA REDDY

Counsel for Respondent Nos.1&2: Gp For Prohibition & Excise

Counsel for Respondent No.3: ---

The Court made the following ORDER:

The petitioner, who claims to be the resident of V.N. Street, Renigunta, Chittoor District filed this writ petition seeking a declaration that the alleged action of the respondents 1 and 2 in allowing the third respondent to shift the Padmavathi Wine shop-1 from the existing premises, is arbitrary and illegal.

The petitioner states that the 3rd respondent, who is running his business at D.No.1-153, G.M. Street, Renigunta made an application to shift his business to D.No.17-28-A, Renigunta – Kalahasti Road and that the respondents 1 and 2 have granted permission for the same without considering the objections raised by the petitioner that the proposed premises is situated within ninety meters from Sri Srinivasa Junior College. The contention of the petitioner is that as per Rule 6(1) of A.P. Excise (Indian Foreign Liquor Retail Sale Conditions of Licences) Rules, 1993, no such lincensee can be granted for locating the business place within hundred meters from an educational institution. It is claimed that the petitioner addressed a letter dated 01-08-2004 to the first respondent and even the Principal of the Educational Institution addressed a letter dated 25-07-2004 to the 1st respondent raising objection to locate the wine shop of the 3rd respondent at Door No.17-28A.

The grievance of the petitioner is that the respondents 1 and 2 failed to consider the objections raised by the petitioner and granted permission to the 3rd respondent.

The learned Government Pleader appearing for the respondents 1 and 2 submits that the respondents 1 and 2 will strictly adhere to the statutory provisions before granting permission to any licence and that in the absence of any material to substantiate the allegations of the petitioner, the relief as prayed for cannot be granted.

Having regard to the facts and circumstances of the case and since there is absolutely no material to show that the respondents 1 and 2 have acted contrary to the statutory provisions, I am not inclined to grant the declaration as prayed for. Instead, I deem it appropriate to dispose of the writ petition with a direction to the respondents 1 and 2 to strictly adhere to the provisions of Rule 6 of the A.P. Excise (Indian Foreign Liquor Retail Sale Conditions of Licences) Rules, 1s993 before granting permission to the third respondent to shift his business place from the existing premises.

The Writ Petition, with the above directions, is disposed of at the admission stage.

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G. ROHINI, J.

6th August, 2004.

Note: C.C. by Monday.

B/o

Js.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1 The Commissioner of Excise, Government of Andhra

Pradesh, Hyderabad.
2 The Superintendent of Prohibition & Excise, Chittoor,

Chittoor District.
3 Two CCs. To G.P. for Prohibition and Excise, High Court

Buildings, Hyderabad.

4 2 CD copies.